**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Gary R. Bledsoe

For: Boot for Treatment of Plantar Fasciitis

## DECLARATION OF INVENTOR

As the below named inventor, I hereby swear or affirm under penalty of perjury that:

1. My residence, post office address and citizenship are as stated below next to my name.

2. I believe I am the original, first and sole inventor of the subject matter for which a patent is sought on the invention, design or discovery entitled:

   BOOT FOR TREATMENT OF PLANTAR FASCIITIS

   for which a patent application was filed December 15, 2003, said application having been assigned serial no. 10/737,396.

3. I have reviewed and understand the contents of the above-identified specification, including the claims, and hereby affirm that I invented the claimed subject matter.

4. I have reviewed the text of Title 35, United States Code §102 (a) through 102(f), a copy of which is attached as Exhibit A to this Declaration, and believe that no event has occurred that prevents me from claiming and obtaining a United States patent for the invention recited in the claims as amended in the Preliminary Amendment.

5. I have read Title 37, Code of Federal Regulations, §1.56, a copy of which is attached as Exhibit B to this Declaration, and hereby acknowledge my duty to disclose to the United States Patent Office all information that is known to me to be material to patentability of this patent application. I understand that information is material to patentability when: (a) the information is not cumulative to information already of record and establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim, or (b) the information refutes or is inconsistent with a position taken by me or my patent attorney in opposing an argument of unpatentability relied on by the Patent Office, or in asserting an argument of patentability. I also understand that my duty of disclosure to the Patent Office exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned.

6. All statements made herein based upon my personal knowledge are true, and all statements made on information and belief are believed to be true. I further understand that willful false statements and the like are punishable by fine or imprisonment, or both, and may jeopardize the validity of the application or any patent issuing thereon.

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|---|---|
| Inventor's Name: | Gary R. Bledsoe |
| Inventor's Signature: |  |
| Date Signed: | MAY 07, 2004 |
| Residence (City, State): | Mansfield, Texas |
| Post Office Address: | 1413 Danbury Drive<br>Mansfield, TX 76063 |
| Citizenship: | United States of America |

## EXHIBIT A

**35 U.S.C. 102 Conditions for patentability; novelty and loss of right to patent.**

A person shall be entitled to a patent unless —

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or

(c) he has abandoned the invention, or

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or

(f) he did not himself invent the subject matter sought to be patented, or

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## EXHIBIT B

**§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) Prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information

already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.
A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in part application.

61513 / 84290 **PATENT**

## POWER OF ATTORNEY

As an official of the assignee, I hereby appoint L. Dan Tucker, registration no. 22,670; Mark R. Backofen, registration no. 51,423; Monty L. Ross, registration no. 28,899; William D. Jackson, registration no. 20,846; Roy W. Hardin, registration no. 28,304; Martin Korn, registration no. 28,317; Charles E. Phipps, registration no. 40,127; Michael W. Dubner, registration no. 47,310; Kristen R. Paris, registration no. 52,092; Scott C. Sample, registration no. 52,189 and Scott Fuller, registration no. 54,716, all of the firm of LOCKE LIDDELL & SAPP LLP, as attorney with full power of substitution and revocation, to prosecute **U.S. patent application S.N. 10/737,396, filed December 15, 2003, entitled "BOOT FOR TREATMENT OF PLANTAR FASCIITIS,"** and to transact all business in the United States Patent and Trademark Office connected therewith, and to file and prosecute any international patent application filed thereon before any international authorities under the Patent Cooperation Treaty;

Send correspondence to:

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Customer No.: 20873

**MEDICAL TECHNOLOGY, INC., a Texas corporation, Assignee**

By: _____

Name: Gary R. Bledsoe

Title: PRES-CEO

Date: MAY 07, 2004